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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,362	01/26/2001	Jonathan M. Hager	444800-032	6442
33375	7590	03/15/2004	EXAMINER	
THOMPSON HINE LLP 2000 COURTHOUSE PLAZA N.E. 10 WEST SECOND STREET DAYTON, OH 45402-1758			RODRIGUEZ, RUTH C	
		ART UNIT	PAPER NUMBER	
		3677		

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/771,362

Applicant(s)

HAGER ET AL

Examiner

Ruth C Rodriguez

Art Unit

3677

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 November 2002.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4 and 19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-4 and 19 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on 26 January 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kayser et al. (US 6,089,453) in view of Call (US 6,154,738).

Kayser discloses a store (42) having a store specific electronic shelf label computer system (40). Each electronic shelf labels system includes a database of electronic display tag display information records (28), a multiplicity of such records including a flag which when set acts as an annunciator trigger for operation of an annunciator in a corresponding display tag (20) (C. 45, L. 59-67 and C. 46, L. 1-15). The computer system includes the state of the flag associated with the products display tag information record and monitors the flag of the records (C. 13, L. 20-35). Kayser fails to disclose that the in-store electronic shelf label computer system is used as part of a computerized consumer shopping tool comprising an internet web service system and a plurality of store specific electronic shelf label computer systems connected to

the internet where a consumer has access to the information of the electronic shelf label computer systems. However, Call teaches a computerized consumer shopping tool comprising an Internet web services system (810) and a plurality of store specific computer systems (811,812,813,814) each linked to the Internet web services system (Fig. 8). Each computer system is operable to communicate information to the Internet web services system regarding products and monitors information for the products (C. 32, L. 1-19). The Internet web services system makes available to consumers (803,804,805) accessing the Internet web services system information for the products via an internet service provider (Fig. 8). The system allows consumers to view product information and perform sales transactions via the Internet web services system (C. 32, L. 1-19). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a computerized consumer shopping tool comprising an Internet web services system and a plurality of store specific computer systems in accordance with the teaching of Call connecting the stores having a store specific electronic shelf label computer system where such a system will allow each electronic shelf label system to be operable to communicate information to the Internet web services system regarding products where such communicated information includes the state of the flag associated with the products display tag information and the Internet web services system will be capable of monitoring the flag of records for identifying products for which there is a related sale, special or other promotion so that for each identified product the Internet web services system makes available to consumers

accessing the Internet web services system information indicating the sale, special or other promotion related thereto. Doing so, will facilitates the shopping experience of the consumer because the system allows consumers to view product information and perform sales transactions via the Internet web services system without having to go physically to the store (C. 32, L. 1-19).

3. Claims 2-4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kayser in view of Call and Deaton et al. (US 6,292,786 B1).

Kayser discloses a store (42) having a store specific electronic shelf label computer system (40). The electronic shelf labels system includes a plurality of electronic display tags (20) associated with products (C. 45, L. 59-67 and C. 46, L. 1-15). A multiplicity of the tag includes annunciators such as lights (C. 39, L. 59-67, C. 40, L. 1-12, C. 45, L. 59-67 and C. 46, L. 1-15). The electronic shelf labels system operable to control the annunciators to identify tags associated with products having a tiered pricing schedule and the display tags controllable to display a plurality of the tiered prices (C. 39, L. 59-67, C. 40, L. 1-12, C. 45, L. 59-67 and C. 46, L. 1-15). Kayser fails to disclose that the store specific electronic shelf label computer system is used as part of a computerized consumer shopping tool comprising an internet web service system and at least one electronic shelf label computer system linked to the Internet web services system where the different prices for the products are provided to different consumers base upon categorization of the consumer. However, Call teaches a computerized consumer shopping tool comprising an Internet web services system (810) and a plurality of store specific computer systems

(811,812,813,814) each linked to the Internet web services system (Fig. 8).

Each computer system is operable to communicate information to the Internet web services system regarding products and monitors information for the products (C. 32, L. 1-19). The Internet web services system makes available to consumers (803,804,805) accessing the Internet web services system information for the products via an internet service provider (Fig. 8). The system allows consumers to view product information and perform sales transactions via the Internet web services system (C. 32, L. 1-19). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a computerized consumer shopping tool comprising an Internet web services system and a plurality of store specific computer systems in accordance with the teaching of Call connecting at least one store having a store specific electronic shelf label computer system where such a system will allow each electronic shelf label system to be linked to the Internet web services system for communication therewith where consumers will have access to the product information contained in the store specific electronic shelf label system. Doing so, will facilitates the shopping experience of the consumer because the system allows consumers to view product information and perform sales transactions via the Internet web services system without having to go physically to the store (C. 32, L. 1-19). Regarding to providing different prices for the products based upon a categorization of the consumer, Deaton teaches a computerized consumer shopping tool accessible through an Internet web services system (12). The Internet web services system utilizes a tiered pricing schedule by providing

incentives or coupons to a customer based upon a categorization of the consumer once the consumer transmits identifying information to the Internet web services system (C. 18, L. 1-36). The Internet web services system is operable to provide a given consumer with information regarding products of the at least one store which are on the tiered pricing schedule (Fig. 1). The tiered pricing schedule stimulates sales by providing incentives and coupons to motivate the customer into purchasing the product (C. 2, L. 11-46). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have the tiered pricing schedule accessible through an Internet web services system as taught by Deaton for the electronic shelf label computer system disclosed by Kayser and modified by Call such that different prices for the products are provided to different consumers based upon a categorization of the consumer wherein the Internet web services system receives the tiered pricing information from the electronic shelf system and provides a given consumer with access to the given consumers price tier for one or more products when the consumer access the Internet web services system and transmits identifying information to the Internet web services system. Doing so, stimulates sales by providing incentives to motivate the customer into purchasing the products.

With respect to the rejection of claim 3, the rejection of claim 2 can be used to reject claim 3 because the limitation of claim 3 are included in claim 2.

Deaton also teaches that:

- The Internet web services system is operable to identify the pricing tier applicable to the given consumer and to provide the given consumer with pricing information for that pricing tier (C. 18, L. 5-36).
- The Internet web services system produces a list indicating which of the desired products has an associated sale, special or other promotion related thereto in response to receipt of a user list of desired products (C. 18, L. 5-36).

Response to Arguments

Applicant's arguments with respect to claims 1-4 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pfeiffer et al. (US 5,198,644), Ackerman et al. (US 5,461,561), Briechle (US 5,704,049), Goodwin, III et al. (US 5,753,900), Goodwin, III (US 5,907,143), Goodwin, III et al.(US 5,943,654) and Swartzel et al. (US 6,552,663 B2) are cited to show state of the art with respect to electronic shelf labels controlled by a computer system.

Begun et al. (US 6,012,244) is cited to show state of the art with respect to a display unit to capture shoppers' attention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (703) 308-1881. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115.

Submissions of your responses by facsimile transmission are encouraged. Technology center 3600's facsimile number for before and after final communications is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

RcR
rcr
March 5, 2004



J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600